

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
PREMIUM PAYMENT PLAN**

Plaintiff,

v.

Civil No. 1:02-CV-502

(GLS)

STATE NATIONAL INSURANCE COMPANY, INC.

Defendants.

APPEARANCES:

OF COUNSEL:

**FOR PLAINTIFF
PREMIUM PAYMENT PLAN:**

Carlucci, Legum Law Firm
170 Old Country Road
Mineola, NY 11501-4307

STEVEN G. LEGUM, ESQ.

**FOR DEFENDANT
STATE NATIONAL INSURANCE COMPANY, INC.**

Fixler & Associates
530 Saw Mill River Road
Elmsford, NY 10523

CHRISTOPHER F. SMITH, ESQ.

**Gary L. Sharpe
U.S. District Judge**

TRIAL ORDER

All relevant Uniform Pretrial Scheduling Order deadlines having expired, this case is hereby designated “trial ready,” and a bench trial has been scheduled to begin on **MONDAY, SEPTEMBER 19, 2005 AT 9:00 A.M.**

The parties **shall** be prepared to proceed according to the schedule recited in this order and attachments.

FINAL PRETRIAL CONFERENCE

The attorneys **shall appear** at this court’s chambers, 445 Broadway, Albany, New York, First Floor, South, for a final pretrial conference on **THURSDAY, SEPTEMBER 8, 2005 AT 9:00 A.M.**

TRIAL

The attorneys and parties **shall appear** at Courtroom No. 6, 445 Broadway, Albany, New York, First Floor, South, for the commencement of trial on **MONDAY, SEPTEMBER 19, 2005 at 9:00 A.M.**

PRETRIAL SUBMISSIONS¹

The pretrial submissions required by Attachment 1 **shall** be filed on or before **SEPTEMBER 1, 2005** (one week before the final pretrial conference), **or earlier in accordance with the generic schedule recited in Attachment 1**, as supplemented by the specific dates set forth below:

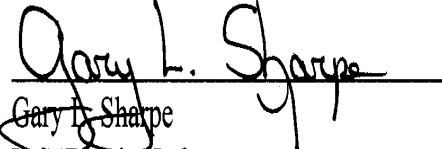
1. On or before **SEPTEMBER 1, 2005** (one week before the final pretrial conference), the parties **shall** file:
 - (a) Joint Pretrial Stipulation (*See Attachment 1, ¶ 1*);
 - (b) All non-video-taped depositions to be used at trial (*See Attachment 1, ¶ 7*);
 - (c) All video-taped depositions to be used at trial shall be filed “traditionally” (*See Attachment 1, ¶ 7 and see General Order #22, ¶ 1.2, unnumbered paragraph foll. 2.1.6*);
 - (d) Prepared Findings of Fact and Conclusions of Law
 - (e) Witness List (*See Attachment 1, ¶ 3*);

¹To the extent that the requirements of this order and attachments are inconsistent with any prior Uniform Pretrial Scheduling Order or other orders entered in this case, this order and attachments control.

- (f) Exhibit List (*See Attachment 1, ¶ 4(4)*);
 - (g) Trial Brief concerning evidentiary issues (*See Attachment 1, ¶ 5*)
 - (g) Motions *In Limine* (*See Attachment 1, ¶ 6*); and,
2. On or before **SEPTEMBER 5, 2005** (three days before the final pretrial conference date), the parties **shall** file:
- (a) Responses to Motions *In Limine* (*See Attachment 1, ¶ 6*);
 - and,
3. On or before **SEPTEMBER 19, 2005** (trial date), the parties **shall** file:
- (a) Exhibit Copies (*See Attachment 1, ¶ 4 (1)*).

SO ORDERED.

Date: August 11, 2005
Albany, NY



Gary L. Sharpe
U.S. District Judge

Attachment #1

Pretrial Submissions

N.B. Unless otherwise noted, all parties shall electronically file and serve all pretrial submissions in accordance with General Order #22, ¶ 5.

The following pretrial submissions **shall** be filed in accordance with this order one (1) week before the final pretrial conference, or on such other date as is specifically noted:

1. Joint Pretrial Stipulation

A joint pretrial stipulation shall be subscribed by counsel for all parties, and shall contain:

- (1) The basis of federal jurisdiction;
- (2) A list of all exhibits which can be stipulated into evidence or which will be offered without objection as to foundation;
- (3) Undisputed relevant facts subject to stipulation; and,
- (4) Issues of law to be considered and applied by the Court.

2. Court Ordered Voir Dire

See Attachment #2

3. Witnesses

- (1) Counsel shall file a witness list containing the

following information regarding the witnesses that may be called to testify at trial other than solely for impeachment purposes:

- (a) The name and, if not previously provided, the address (city only) of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

N.B.: Personal Privacy Protections may apply to disclosure of this information. See Local Rule 8.1; General Order #22, ¶¶ 2.1.3, 11.1-11.2 and 12.2.

- (b) The designation of those witnesses whose testimony is expected to be presented by means of a deposition (including video-taped deposition), specifically identifying the pertinent portions of the deposition testimony to be offered.

(2) The unavailability of any witness, expert, or otherwise, will not be grounds for a continuance. In order to avoid the possibility of proceeding at trial without the testimony of an unavailable witness, counsel, where appropriate, shall preserve the testimony by written or video-taped deposition for possible use at trial. (Please refer to the attached instruction sheet for the use of video-taped depositions.)

4. Exhibits

- (1) All exhibits shall be marked for identification in the manner prescribed hereinafter. A complete set of copies

of the exhibits or, alternatively, a copy of a CD ROM containing the exhibits shall be presented to Judge Sharpe's Deputy Courtroom Clerk at the beginning of the trial.

- (2) The exhibits shall have been inspected by the opposing party and copied at their expense (unless waived), **NO LATER THAN ONE WEEK PRIOR TO THE FINAL PRETRIAL CONFERENCE DATE.** All documents and/or papers intended as exhibits or to be used during the course of trial, including but not limited to, documents, photographs, charts, diagrams, etc., shall be assembled in **BINDERS AND/OR ON CD ROM** with each document properly marked at the lower right corner for identification purposes as directed below. In voluminous cases, consult with Judge Sharpe's Courtroom Clerk for the proper procedure to follow.
- (3) During the course of trial the Deputy Courtroom Clerk shall take charge of exhibits which are received into evidence. At the conclusion of the trial, the Courtroom Deputy Clerk will immediately return all of the exhibits to the proper parties. It is the responsibility of the parties to maintain the exhibits and to produce the exhibits for any appeal.
- (4) **One week before the Final Pretrial Conference date**, counsel shall electronically file and serve an Exhibit List. The exhibits shall be listed on the form prescribed by the Court, a copy of which is attached to this Order. Counsel are to supply all the requested information with the exception of the two "Date Boxes" which should remain blank.
- (5) Counsel shall fill in the appropriate markers leaving the "File" and "Deputy Clerk" lines blank. All exhibits shall be assigned numbers by using a

prefix of "P" for plaintiff, "D" for defendant, and "G" for Government (U.S. Attorney).

Plaintiff's exhibits should be denoted as: P-1, P-2, P-3, etc. Defendant's exhibits should be denoted as: D-1, D-2, D-3, etc. Government's exhibits should be denoted as: G-1, G-2, G-3, etc. In cases involving multiple defendants, the exhibits shall be denoted with the initial of the last name of the defendant and its numerical identification number.

Stickers shall be affixed whenever possible to the lower right-hand corner of the exhibit. If the exhibit marker is going to cover any information on the exhibit, then affix the marker to the reverse side of the exhibit.

5. Trial Brief

One week before the Final Pretrial Conference date, counsel shall electronically file and serve a trial brief containing argument and citations on any and all disputed issues of law, citing the applicable rules of evidence and case law. Trial briefs should also include any evidentiary issues that are expected to arise.

6. Motions in Limine

One week before the Final Pretrial Conference date, counsel shall electronically file and serve any motions in limine, citing the applicable rules of evidence and case law. Counsel shall file any response to a motion in limine no later than **three days before the Final Pretrial Conference date**. **MOTIONS IN LIMINE MAY NOT OTHERWISE BE FILED WITHOUT LEAVE OF THE COURT.**

7. Depositions

(1) One week before the Final Pretrial Conference date,

counsel shall electronically file all non-video taped depositions to be used at trial. Counsel shall traditionally file all video-taped depositions to be used at trial. (See General Order #22, ¶¶ 1.2, unnumbered paragraph foll. 2.1.6). To the extent possible, objections are to be resolved between the parties. Areas of unresolved disagreement shall be presented to the Court for ruling at the Final Pretrial Conference. (See attached instruction sheet for use of video-taped depositions.)

ATTACHMENT #(2)

**COURT ORDERED VOIR DIRE
TO BE USED BY THE JUDGE AT TRIAL**

CASE TITLE:

CIVIL ACTION NO.:

ASSIGNED JUDGE OR MAGISTRATE JUDGE:

Each attorney is required to submit the following information on behalf of his/her client for use by the Court during Voir Dire and must be filed with the Court one week in advance of the trial ready date.

NAMES AND ADDRESSES OF ALL PARTIES TO THE LAWSUIT:

(use additional page if necessary)

YOUR NAME, FIRM NAME, ADDRESS AND THE NAME OF ANY PARTNER OR ASSOCIATE WHO MAY BE AT COUNSEL TABLE DURING THE COURSE OF THE TRIAL.

(use additional page if necessary)

SET FORTH THE DATE OF THE OCCURRENCE, THE PLACE OF THE OCCURRENCE AND A BRIEF STATEMENT OF THE EVENTS CENTRAL TO THE LITIGATION.

(use additional page if necessary)

SET FORTH THE NAMES AND ADDRESSES OF ALL LAY WITNESSES TO BE CALLED.

(use additional page if necessary)

SET FORTH THE NAMES AND ADDRESSES OF ALL EXPERT WITNESSES TO BE CALLED GIVING A BRIEF DESCRIPTION OF THEIR AREAS OF EXPERTISE.

(use additional page if necessary)

SET FORTH A BRIEF DESCRIPTION OF EACH AND EVERY CAUSE OF ACTION IN THE COMPLAINT.

(use additional page if necessary)

SET FORTH A BRIEF DESCRIPTION OF EACH AND EVERY AFFIRMATIVE DEFENSE ASSERTED AS WELL AS A STATEMENT ADDRESSING ANY COUNTERCLAIMS RAISED IN THE ANSWER.

(use additional page if necessary)

PLEASE TAKE NOTICE that any delay in jury selection occasioned by the failure to provide this information will be explained to the jury as to the extent of the delay and the attorney causing same and if the delay causes a one (1) day or more postponement of this trial, appropriate monetary sanctions will be imposed by the Court.

Submitted by:

Date:

INSTRUCTIONS FOR THE USE OF VIDEO TAPED DEPOSITIONS

COUNSEL ARE TO VIEW ALL VIDEOTAPES WHICH MAY BE OFFERED INTO EVIDENCE AT THE TIME OF TRIAL. ALL VIDEO-TAPED DEPOSITIONS TO BE USED AT TRIAL SHALL BE FILED WITH THE CLERK'S OFFICE AT LEAST ONE WEEK BEFORE THE TRIAL READY DATE. NOT EARLIER THAN ONE WEEK AND NOT LESS THAN FOUR DAYS PRIOR TO THE TRIAL READY DATE, EACH PARTY SHALL INDICATE TO THE OTHER PARTY THE PORTION OF THE DEPOSITION TO BE OFFERED. TO THE EXTENT POSSIBLE, OBJECTIONS ARE TO BE RESOLVED BETWEEN THE PARTIES. COUNSEL SHALL SUBMIT ALL OBJECTIONS IN WRITING TO THE COURT FOR RULING PRIOR TO THE TRIAL READY DATE.

THE CLERKS OFFICE HAS AVAILABLE A VHS FORMAT VIDEO CASSETTE PLAYER AND TELEVISION FOR USE AT TRIAL. PLEASE BE ADVISED THAT YOU MUST PROVIDE A PERSON TO RUN THE EQUIPMENT DURING THE COURSE OF THE TRIAL.

ELECTRONIC VISUAL EVIDENCE PRESENTER

IN ADDITION TO THE VIDEO EQUIPMENT NOTED ABOVE, THE COURT HAS AVAILABLE A VISUAL EVIDENCE PRESENTER WHICH WILL ALLOW COUNSEL TO DISPLAY PHOTOS (NEGATIVES OR POSITIVES), DOCUMENTS, X-RAYS, AND 3-D OBJECTS , WITHOUT WIRES, ON TELEVISIONS PLACED THROUGHOUT THE COURTROOM. THIS EQUIPMENT IS AVAILABLE AT THE COURTHOUSES IN ALBANY, SYRACUSE, UTICA AND BINGHAMTON. USE OF THE VISUAL PRESENTER MAY BE REQUIRED BY THE TRIAL JUDGE PRESIDING OVER YOUR CASE. FOR FURTHER INFORMATION ON THE USE OF THIS EQUIPMENT, PLEASE CONTACT THE COURTROOM DEPUTY CLERK FOR THE ASSIGNED TRIAL JUDGE.

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ PLAINTIFF EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ DEFENDANT EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>
<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ PLAINTIFF EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ DEFENDANT EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>
<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ PLAINTIFF EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK</p> <p>CASE NO. _____ DEFENDANT EXHIBIT NO. _____ DATE ENTERED _____</p> <p>LAWRENCE K. BAERMAN, CLERK BY: _____ DEPUTY CLERK</p>

United States District Court
For The Northern District Of New York

Case No. _____

Date: _____

Presiding Judge: _____

() Plaintiff

() Defendant

() Court

Exhibit No.	Marked for Identification	Admitted Into Evidence	Remarks	Witness	Exhibit Description

Exhibits Returned To Counsel (Date): _____

Signature: _____

Page __ of __

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Signature: _____

